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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,229	04/10/2001	Ryuichiro Hisamatsu	450100-03185	9926
20999	7590	01/13/2006	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			LONSBERRY, HUNTER B	
			ART UNIT	PAPER NUMBER

2611

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/832,229

Applicant(s)

HISAMATSU ET AL.

Examiner

Hunter B. Lonsberry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5-8,10-15,17,19-21,23-26,28-31 and 33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-8,10-15,17, 19-21,23-26,28-31, and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 10/25/05 have been fully considered but they are not persuasive.

Applicant argues that Imajima relates to a VOD system in which the CLAD multiplexes video data obtained by removing information from the cell and outputs the video data and that there is no teaching of generating a second data stream that includes audio data and video data wherein the first and second data stream are transmitted with a maximum combined transmission rate for the multiplexed data stream at 24 Mbps.

Regarding Applicant's argument, Matsuzaki is relied upon to teach generation of a first and second stream. Gangon is relied upon to teach multiplexed audio video and data communications, however Gangon, in combination with Matsuzaki fails to teach multiplexing the data at a maximum combined rate of 24 Mbps. Imajima is relied upon to teach multiplexing data streams (VOD movies, column 8, lines 31-37, column 17, lines 41-45) at a maximum combined rate of 24 Mbps (column 10, lines 40-59, column 12, lines 10-15), thus ensuring that a user will receive the data on time by utilizing a high bandwidth pathway. Imajima discloses at column 12, lines 10-15 that the data is multiplexed at 24 Mbps and that the header data is stripped prior to being multiplexed not audio or any other information as argued by applicant.

Applicant's failure to traverse the Official Notice(s) taken in the previous Office Action are taken as admission of prior art.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 17 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,522,342 to Gagnon in view of U.S. Patent 6,211,901 to Imajima.

Regarding claims 17 and 33, Gagnon discloses a receiving device comprising:  
receiving means 132 for receiving a broadcast in which a data stream including audio data and video data is transmitted using a program broadcasting band (column 27, lines 3-37, column 28, lines 51-67) and other data stream, which is utilized after this data stream is accumulated in a recording media on a receiving side (the stream may be stored on a DVHS tape or web pages may be retrieved from a hard drive, column 8, lines 53-60, column 12, lines 27-35, column 13, lines 37-41, column 15, lines 1-29), is

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transmitted using a data broadcasting band to which this data stream is allocated (column 28, lines 48-67), and the program broadcasting band and the data broadcasting band are controlled so that a sum of the bands does not exceed a given bandwidth (column 8, lines 25-30, the bandwidth is a satellite bandwidth on a DirecTV system);

separating means (tuner 502, column 27, lines 3-35) for separating the data stream, which has been allocated to the data broadcasting band, from the broadcast that has been received by the receiving means; and

recording means 128 for recording the separated data stream (column 8, lines 53-60, column 31, lines 4-11, PC stores the data stream).

Gangon fails to disclose a maximum transmission rate for the multiplexed data of 24 Mbps.

Imajima discloses a system, which multiplexes data and transmits data at 24 Mbps (column 12, lines 10-15), thus ensuring that data is received by a user on time.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Gangon to multiplex and transmit data at 24 Mbps, thus ensuring that data is received by a user on time.

3. Claims 1, 3, 6, 8 13, 15, 19, 21, 24, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,522,672 to Matsuzaki in view of U.S. Patent 6,522,342 to Gagnon and U.S. Patent 6,211,901 to Imajima.

Regarding claim 1, Matsuzaki discloses a data transmission device in figures 1-2 comprising:

a first generator 43 for generating a first data stream;

a second generator 41/43 for generating a second data stream that includes audio data and video data ;

a multiplexer 34 for multiplexing the first data stream and the second data stream (column 4, lines 41-50);

a transmitter 79 for transmitting the multiplexed data stream that has been multiplexed by the multiplexer (column 8, lines 12-25); and

a controller 33 for controlling the multiplexer so that a transmission rate for the first data stream becomes lower than that for the second data stream (column 4, line 59-column 5, line 3, 10-31).

Matsuzaki fails to disclose a first data stream that is utilized after the first data stream is accumulated in a recording medium on a receiving side and a maximum combined transmission rate for the multiplexed data stream is 24 Mbps..

Gagnon discloses a web data system which transmits web pages to a user via a satellite link (column 8, lines 8-19, column 11, lines 1-10), the user retrieves the webpages from a hard drive in the receiver (column 12, lines 27-35, column 13, lines 37-41, column 15, lines 1-29, the webpages are accumulated on the hard disk prior to being viewed), thus enabling storage of a vast amount of content through the use of a hard disk.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Matsuzaki to utilize the accumulation on the recording medium feature of Gagnon, thus enabling storage of a vast amount of content through the use of a hard disk.

The combination of Gangon and Matsuzaki fails to disclose a maximum transmission rate for the multiplexed data of 24 Mbps.

Imajima discloses a system, which multiplexes data and transmits data at 24 Mbps (column 12, lines 10-15), thus ensuring that data is received by a user on time.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Gangon to multiplex and transmit data at 24 Mbps, thus ensuring that data is received by a user on time.

Regarding claims 3, 21, the combination of Matsuzaki and Gangon discloses transmitting webpages to a user.

The combination of Matsuzaki, Gangon and Imajima fails to disclose if the webpages include both audio and video data.

The examiner takes official notice that transmitting webpages, which include audio and video data, is notoriously well known in the art. Multimedia enabled webpages provide an aesthetically pleasing viewing experience for a user.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Matsuzaki, Gangon and Imajima to transmit

audio and video enabled webpages in the first data stream, thus providing an atheistically pleasing viewing experience for a user.

Regarding claims 6, 13, and 24, Matsuzaki discloses a multiplexer 34 and transmitter 79 which includes:

a controller 33 for controlling the multiplexer so that a transmission rate for the first data stream becomes lower than that for the second data stream (column 4, line 59-column 5, line 3, 10-31).

Matsuzaki fails to disclose a receiving means, which stores a data stream after it is accumulated on the receiver and a maximum transmission rate for the multiplexed data of 24 Mbps..

Gangon discloses receiving means 132 for receiving a broadcast in which a data stream including audio data and video data is transmitted using a program broadcasting band (column 27, lines 3-37, column 28, lines 51-67) and other data stream, which is utilized after this data stream is accumulated in a recording media on a receiving side (the stream may be stored on a DVHS tape or web pages may be retrieved from a hard drive, column 8, lines 53-60, column 12, lines 27-35, column 13, lines 37-41, column 15, lines 1-29), is transmitted using a data broadcasting band to which this data stream is allocated (column 28, lines 48-67), and the program broadcasting band and the data broadcasting band are controlled so that a sum of the bands does not exceed a given bandwidth (column 8, lines 25-30, the bandwidth is a satellite bandwidth on a DirecTV system);



separating means (tuner 502, column 27, lines 3-35) for separating the data stream, which has been allocated to the data broadcasting band, from the broadcast that has been received by the receiving means; and

recording means 128 for recording the separated data stream (column 8, lines 53-60, column 31, lines 4-11, PC stores the data stream), thus enabling a user to receive multiple types of content over the same interface at a remote location.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the transmission system of Matsuzaki to include the receiving, separating, and recording means of Gangon, thus enabling a user to receive multiple types of content over the same interface at a remote location.

The combination of Matsuzaki and Gangon fails to disclose a maximum transmission rate for the multiplexed data of 24 Mbps.

Imajima discloses a system, which multiplexes data and transmits data at 24 Mbps (column 12, lines 10-15), thus ensuring that data is received by a user on time.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Matsuzaki and Gangon to multiplex and transmit data at 24 Mbps, thus ensuring that data is received by a user on time.

Regarding claims 8 and 26, the combination of Matsuzaki and Gangon discloses transmitting webpages to a user.

The combination of Matsuzaki, Gangon and Imajima fails to disclose if the webpages include both audio and video data.

The examiner takes official notice that transmitting webpages that include audio and video data is notoriously well known in the art. Multimedia enabled webpages provide an atheistically pleasing viewing experience for a user.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify The combination of Matsuzaki, Gangon and Imajima to transmit audio and video enabled webpages in the first data stream, thus providing an atheistically pleasing viewing experience for a user.

Regarding claims 15 and 31, Matsuzaki discloses a transmission device comprising:

transmitting means for transmitting a data stream, which includes audio data and video data, using a program broadcasting band (column 4, lines 26-37, column 8, lines 12-25), and

transmitting a data stream by allocating this broadcasting band (column 4, lines 26-37); and

controlling means 33 for controlling the program broadcasting band and the data-broadcasting band so that a sum of the bands does not exceed a given bandwidth (column 4, line 59-column 5, line 3, 10-31).

Matsuzaki fails to disclose a data stream that is utilized after this data stream is accumulated in a recording media on a data stream to a data receiving side, by

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allocating this broadcasting band and a maximum transmission rate for the multiplexed data stream of 24 Mbps.

Gagnon discloses a web data system which transmits web pages to a user via a satellite link (column 8, lines 8-19, column 11, lines 1-10), the user retrieves the webpages from a hard drive in the receiver (column 12, lines 27-35, column 13, lines 37-41, column 15, lines 1-29, the webpages are accumulated on the hard disk prior to being viewed), thus enabling storage of a vast amount of content through the use of a hard disk.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Matsuzaki to utilize the accumulation on the recording medium feature of Gagnon, thus enabling storage of a vast amount of content through the use of a hard disk.

The combination of Matsuzaki and Gangon fails to disclose the sum of the program band and data broadcasting band is 24 Mbps. .

Imajima discloses a system, which multiplexes data and transmits data at 24 Mbps (column 12, lines 10-15), thus ensuring that data is received by a user on time.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Gangon to multiplex and transmit data at 24 Mbps, thus ensuring that data is received by a user on time.

Regarding claim 19, Matsuzaki discloses a data transmitting method comprising the step of:

generating a first data stream that is utilized after the first data stream is accumulated in a recording medium on a receiving side (column 4, lines 26-37);

generating a second data stream that includes audio data and video data (column 4, lines 26-37, column 8, lines 12-25); and

transmitting a multiplexed data stream that has been multiplexed from the first data stream and the second data stream wherein said multiplexed data stream is multiplexed in such a manner that a transmission rate for the first data stream becomes lower than that of the second data stream (column 4, line 59-column 5, line 3, 10-31).

Matsuzaki fails to disclose a first data stream that is utilized after the first data stream is accumulated in a recording medium on a receiving side and the maximum combined transmission rate for the multiplexed data stream is 24 Mbps.

Gagnon discloses a web data system which transmits web pages to a user via a satellite link (column 8, lines 8-19, column 11, lines 1-10), the user retrieves the webpages from a hard drive in the receiver (column 12, lines 27-35, column 13, lines 37-41, column 15, lines 1-29, the webpages are accumulated on the hard disk prior to being viewed), thus enabling storage of a vast amount of content through the use of a hard disk.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Matsuzaki to utilize the accumulation on the recording medium feature of Gagnon, thus enabling storage of a vast amount of content through the use of a hard disk.

The combination of Matsuzaki and Gangon fails to disclose a maximum transmission rate for the multiplexed data of 24 Mbps.

Imajima discloses a system, which multiplexes data and transmits data at 24 Mbps (column 12, lines 10-15), thus ensuring that data is received by a user on time.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Gangon to multiplex and transmit data at 24 Mbps, thus ensuring that data is received by a user on time.

4. Claims 2, 7, 20, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,522,672 to Matsuzaki in view of U.S. Patent 6,522,342 to Gangon and U.S. Patent 6,211,901 to Imajima in further view of U.S. Patent 6,804,825 to White.

Regarding claims 2, 7, 20, and 25, Matsuzaki and Gangon disclose a data transmission device.

The combination of Matsuzaki, Gangon and Imajima fails to disclose if the first data stream includes data relating to an electronic commercial transaction.

White discloses a system which enables for the download of HTML data of supplemental content and allows a user who watches a music video to purchase a CD of the music in the music video (column 7, lines 1-27), thus increasing revenue for a program provider make enabling the user to make an impulse purchase.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Matsuzaki and Gangon to transmit the first data as data related to an electronic commercial transaction as taught by White, thus increasing revenue for a program provider make enabling the user to make an impulse purchase.

6. Claims 5, 10, 23, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,522,672 to Matsuzaki in view of U.S. Patent 6,522,342 to Gagnon in further view of U.S. Patent 6,211,901 to Imajima in further view of U.S. Patent 6,128,649 to Smith.

Regarding claims 5, 10, 23, and 28, the combination of Matsuzaki, Gangon and Imajima disclose transmitting data at 24 Mbps and setting priorities for different data streams.

The combination of Matsuzaki, Gangon and Imajima fails to disclose transmitting the first data stream at 2Mbps.

Smith discloses the use of a TDMA system, which transmits audio, video and data at 2 Mbps (column 1, lines 23-30), thus ensuring that data is received by a user on time.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Matsuzaki, Gangon and Imajima to transmit the

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first stream at 2 Mbps as taught by Smith, thus ensuring that data is received by a user on time.

7. Claims 11-12 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,522,672 to Matsuzaki in view of U.S. Patent 6,522,342 to Gagnon and U.S. Patent 6,211,901 to Imajima in further view of U.S. Patent 6,757,906 to Look.

Regarding claim 11 and 29, the combination of Matsuzaki, Gangon and Imajima discloses a satellite receiver.

The combination of Matsuzaki, Gangon and Imajima fails to disclose a recorder, which records a first datastream with a high user viewing frequency for preference.

Look discloses a personal video recorder which enables a user to set recording preferences which include recording all episodes of a show ( high viewing frequency, column 15, lines 27-39, column 17, lines 56-64), thus ensuring that a user to never miss out on an episode of a favourite show.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Matsuzaki, Gangon and Imajima to utilize a high viewing frequency preference as taught by Look, thus ensuring that a user to never miss out on an episode of a favourite show.

Regarding claims 12 and 30, the combination of Matsuzaki, Gangon and Imajima discloses a satellite receiver.

The combination of Matsuzaki, Gangon and Imajima fails to disclose a recorder, which records a first data stream, which is in a field specified beforehand.

Look discloses a personal video recorder which enables a user to set recording preferences which include recording all episodes of a show prior to broadcast ( high viewing frequency, column 15, lines 27-39, column 17, lines 56-64), thus ensuring that a user to never miss out on an episode of a favourite show.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Matsuzaki, Gangon and Imajima to utilize a high viewing frequency preference as taught by Look, thus ensuring that a user to never miss out on an episode of a favourite show.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,522,672 to Matsuzaki in view of U.S. Patent 6,522,342 to Gagnon and U.S. Patent 6,211,901 to Imajima in further view of U.S. Patent 6,286,141 to Browne.

Regarding claim 14, the combination of Matsuzaki, Gangon and Imajima discloses a satellite receiving system.

The combination of Matsuzaki, Gangon and Imajima fails to disclose a recorder, which comprises an outputter for outputting a user's viewing history.



Browne discloses a personal editing system which tracks what programs and channels a user watches and outputs them on a display (column 7, line 49-column 8, line 5, figures 3/6), thus aiding a user to make a specific selection based on programs the user previously watched.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Matsuzaki, Gangon and Imajima to utilize the viewing history display of Browne, thus aiding a user to make a specific selection based on programs the user previously watched.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-


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272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HBL

  
**CHRISTOPHER GRANT**  
**SUPERVISORY PATENT EXAMINER**  
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